

# SENATE BILL REPORT

## SHB 1887

---

As Reported By Senate Committee On:  
Water, Energy & Environment, March 30, 2005  
Ways & Means, April 4, 2005

**Title:** An act relating to exemptions to the litter tax.

**Brief Description:** Modifying exemptions to the litter tax.

**Sponsors:** House Committee on Finance (originally sponsored by Representatives Hasegawa, Orcutt and Chase).

**Brief History:** Passed House: 3/15/05, 96-0.

**Committee Activity:** Water, Energy & Environment: 3/30/05 [DP].  
Ways & Means: 4/4/05 [DP].

---

### SENATE COMMITTEE ON WATER, ENERGY & ENVIRONMENT

**Majority Report:** Do pass.

Signed by Senators Poulsen, Chair; Rockefeller, Vice Chair; Morton, Ranking Minority Member; Fraser, Hewitt, Honeyford, Mulliken, Pridemore and Regala.

**Staff:** Margaret King (786-7416)

---

### SENATE COMMITTEE ON WAYS & MEANS

**Majority Report:** Do pass.

Signed by Senators Prentice, Chair; Doumit, Vice Chair; Fraser, Vice Chair; Zarelli, Ranking Minority Member; Brandland, Kohl-Welles, Parlette, Pflug, Pridemore, Rasmussen, Regala, Roach, Rockefeller, Schoesler and Thibaudeau.

**Staff:** Dean Carlson (786-7305)

**Background:** The litter tax, at a rate of 0.015 percent, applies to the value of certain products manufactured and sold within the state and to the gross proceeds of certain products sold at wholesale or retail. The tax receipts are deposited to the Waste Reduction, Recycling, and Litter Control Account. Funds are used by the Department of Ecology for a litter patrol program employing youth to clean up public places and for public education and awareness programs relating to litter control and recycling, including development of markets for recycled products and cost of litter tax compliance. In the fiscal year 2004, almost \$7 million in collections were reported.

The 2003 Legislature enacted legislation exempting food and beverages sold for consumption indoors on the business's premises from the litter tax. The exemption does not explicitly address similar situations, such as food courts at malls, where food may be eaten in areas that

are adjacent to restaurants themselves but that are not actually owned by the restaurants, or situations where part of the business's premises that is made available for dining is outdoors.

For excise tax purposes, caterers are treated like other restaurants that sell food at retail. Catering sales are subject to the retail sales tax, irrespective of where the caterer prepares the food, and whether the caterer or the customer provides the ingredients for the food preparation. Caterers are also subject to the litter tax, even if the food and drink is provided in multiple use containers or on servingware that is the property of the caterer.

**Summary of Bill:** Sales of food or drinks are exempt from the litter tax if the items are sold for immediate consumption either indoors or outdoors at a seller's place of business or in an eating area adjacent to the seller's place of business. Additionally, sales of food or drinks by a caterer are exempt from the tax if the items are sold for immediate consumption in or on containers that are designed to be used more than one time at premises that are occupied or controlled by the customer.

**Appropriation:** None.

**Fiscal Note:** Available.

**Committee/Commission/Task Force Created:** No.

**Effective Date:** Ninety days after adjournment of session in which bill is passed.

**Testimony For (Water, Energy & Environment):** Includes situations that should be included under the original intent of the litter tax exemption for the sales of food or drinks for consumption at the seller's place of business. Implements the current practice of the DOR and clarifies exclusion.

**Testimony Against (Water, Energy & Environment):** None.

**Who Testified (Water, Energy & Environment):** PRO: Representative Haseqawa, prime sponsor; Kim Clauson Hoff, WA Restaurant Association.

**Testimony For (Ways & Means):** This bill clarifies the exemption for the sale of food or drinks at a seller's place of business. The Department of Revenue currently allows the exemption for these kinds of sales. A survey of caterers shows that none of them are paying the litter tax now, so the fiscal note may be overstated.

**Testimony Against (Ways & Means):** None.

**Who Testified (Ways & Means):** PRO: Representative Hasegawa, prime sponsor; Kim Hoff, WA Restaurant Association.